

AMENDED IN ASSEMBLY APRIL 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 637

**Introduced by Assembly Members ~~Torres and Levine~~ Member
Atkins
(Coauthor: Assembly Member Torres)**

February 20, 2013

~~An act to amend Section 4775 of the Civil Code, relating to common interest developments. An act to amend Section 51504 of the Health and Safety Code, relating to housing.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 637, as amended, ~~Torres Atkins. Common interest developments. Housing assistance.~~

Existing law requires the California Housing Finance Agency to administer the California Homebuyer's Downpayment Assistance Program for the purpose of assisting first-time low- and moderate-income home buyers utilizing existing mortgage financing. Existing law allows the agency to use not more than \$75,000,000 of the funds available pursuant to that provision to finance the acquisition of land and the construction and development of for-sale residential structures through short-term loans, as specified.

This bill would instead allow the agency to use not more than \$75,000,000 of the funds available pursuant to that provision to finance the construction and development of housing developments, as defined in a specified statute and for-sale structures.

~~Existing law, the Davis-Stirling Common Interest Development Act, provides that, unless otherwise provided in the declaration of a common interest development, the association of the common interest~~

development is responsible for repairing, replacing, or maintaining the common area, other than the exclusive use common area, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to the separate interest.

~~This bill would instead provide that, unless otherwise provided in the declaration, the association is responsible for maintaining, repairing, and replacing the common area, the owner of each separate interest is responsible for maintaining, repairing, and replacing the separate interest, and the owner of the separate interest is responsible for maintaining the exclusive use common area appurtenant to the separate interest while the association is responsible for repairing and replacing this area.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 51504 of the Health and Safety Code is
2 amended to read:
3 51504. (a) The agency shall administer a downpayment
4 assistance program that includes, but is not limited to, all of the
5 following:
6 (1) Downpayment assistance shall include, but not be limited
7 to, a deferred-payment, low-interest, junior mortgage loan to reduce
8 the principal and interest payments and make financing affordable
9 to first-time low- and moderate-income home buyers.
10 (2) (A) Except as provided in subparagraph (B) or (C), the
11 amount of downpayment assistance shall not exceed 3 percent of
12 the home sale price.
13 (B) The amount of downpayment assistance for a new home
14 within an infill opportunity zone, as defined in Section 65088.1
15 of the Government Code, a transit village development district, as
16 defined in Section 65460.4 of the Government Code, or a
17 transit-oriented development specific plan area, as defined in
18 paragraph (6), shall not exceed 5 percent of the purchase price or
19 the appraised value, whichever amount is less, of the new home.
20 The borrower of the downpayment assistance shall provide the
21 lender originating the loan with a certification from the local
22 government agency administering the infill opportunity zone, the

transit village development district, or the transit-oriented development specific plan area that states that the property involved in the loan transaction is within the boundaries of either the infill opportunity zone, the transit village development district, or the transit-oriented development specific plan area.

(C) Notwithstanding paragraph (1), the agency may, but is not required to, provide downpayment assistance that does not exceed 6 percent of the home sale price to first-time low-income home buyers who, as documented to the agency by a nonprofit organization that is certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization as a neighborhood in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families. The agency shall not use more than six million dollars (\$6,000,000) in funds made available pursuant to Section 53533 for the purposes of this paragraph.

(3) The amount of the downpayment assistance shall be secured by a deed of trust in a junior position to the primary financing provided. The term of the loan for the downpayment assistance shall not exceed the term of the primary loan.

(4) (A) Except as provided in subparagraph (B), the amount of the downpayment assistance shall be due and payable at the end of the term or upon sale of or refinancing of the home. The borrower may refinance the mortgages on the home provided that the principal and accrued interest on the junior mortgage loan securing the downpayment assistance are repaid in full. All repayments shall be made to the agency to be reallocated for the purposes of this chapter.

(B) The agency may, in its discretion, permit the downpayment assistance loan to be subordinated to refinancing if it determines that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and the new loan meets the agency's underwriting requirements. The agency may permit subordination on those terms and conditions as it determines are reasonable.

(5) The agency may use up to 5 percent of the funds appropriated by the Legislature for purposes of this chapter to administer this program.

(6) For purposes of this section, “transit-oriented development specific plan area” means a specific plan that meets the criteria set forth in Section 65451 of the Government Code, is centered around a rail or light-rail station, ferry terminal, bus hub, or bus transfer station, and is intended to achieve a higher density use of land that facilitates use of the transit station.

(b) In addition to the downpayment assistance program authorized by subdivision (a), the agency may, at its discretion, use not more than seventy-five million dollars (\$75,000,000) of the funds available pursuant to this chapter to finance the acquisition of land and the construction and development of *housing developments, as defined in Section 50073.5, and for-sale residential structures through short-term loans pursuant to its authority pursuant to Section 51100. However, the agency shall make downpayment assistance provided pursuant to paragraph (1), subparagraphs (A) and (B) of paragraph (2), and paragraphs (3) to (5), inclusive, of subdivision (a) the priority use for these funds. A loan made pursuant to this section is not subject to Article 4 (commencing with Section 51175) of Chapter 5.*

~~SECTION 1. Section 4775 of the Civil Code is amended to read:~~

~~4775. (a) (1) Unless otherwise provided in the declaration of a common interest development, the association is responsible for maintaining, repairing, and replacing the common area.~~

~~(2) Unless otherwise provided in the declaration, the owner of each separate interest is responsible for maintaining, repairing, and replacing that separate interest.~~

~~(3) Unless otherwise provided in the declaration, the owner of each separate interest is responsible for maintaining the exclusive use common area appurtenant to the separate interest and the association is responsible for repairing and replacing this exclusive use common area.~~

~~(b) The costs of temporary relocation during the repair and maintenance of the areas within the responsibility of the association shall be borne by the owner of the separate interest affected.~~